

REMARKS

Claims 1-15 and 21-31 were pending and rejected. Claims 1-15 and 21-31 are currently amended. Claims 16-20 were previously cancelled. A clerical error in the previous response resulted in the misnumbering of two consecutive claims as "claim 26." The second of these claims is currently cancelled without prejudice. Therefore, claims 1-15 and 21-31 are currently pending. The amendments are fully supported by the disclosure and no new matter has been added. Applicants respectfully request reconsideration and allowance in light of the amendments and the following remarks.

Response to Amendment

On page 2 of the Action, the previously submitted amendment filed February 16, 2010 was stated to be improper. Specifically, the Action asserted that the amendment included amended claims having underlined (i.e. added limitations) deleted portions, and that the amendment did not carry through the correct underlined and deleted/relined portions from the last entered amendments of July 20, 2009. The Action also noted that the after-final amendment filed December 14, 2009 was not entered.

As requested, the Listing of Claims indicates the changes to the claims as presented in the amendment filed July 20, 2009. Therefore, the amendments as presented in the current Listing of Claims are proper, and entry of the amendments is respectfully requested.

Terminal Disclaimer

On page 3 of the Action, the Examiner noted that no Power of Attorney had been filed in this case. As a result, the Terminal Disclaimer was not approved.

Applicants attach to this paper a copy of a document executed by the current assignee granting power of attorney to Applicants. A copy of the Terminal disclaimers is also attached. Therefore, Applicants respectfully request approval of the Terminal Disclaimers.

Double Patenting

In the Action, claims 1-15 and 21-31 were provisionally rejected for nonstatutory obviousness-type double patenting over claims 1-14 of copending Application No. 10/552873 (now U.S. Patent No. 7,681,610). Claims 1-15 and 21-31 were further rejected for nonstatutory obviousness-type double patenting over claims 1-22 of U.S. Patent No. 7,490,641.

Applicants attach to this communication a Terminal Disclaimer under 37 C.F.R. § 1.321(c) for U.S. Patent No. 7,681,610 and for U.S. Patent No. 7,490,641. Applicants respectfully submit that the terminal disclaimer obviates the double patenting rejections.

Objections to the Specification

The amendment filed February 16, 2010 was objected to under 35 U.S.C. 132(a) on the grounds that it introduced new matter into the disclosure. The added material considered by the Examiner to be new matter is "An infeed system . . . to a processing machine . . . a workpiece feed path operatively coupled to the processing machine."

While Applicants respectfully maintain that the term "processing machine" is supported by the original disclosure, Applicants have nonetheless amended claims 1, 24, and 26 to clarify that the processing machine or cutting apparatus is "an optimizing planer, planer, planer-matcher, or moulder." The Examiner has previously noted that the original disclosure supports structure including a planer, planer-matcher, or moulder (see Office Action mailed October 14, 2009, pg. 5; see also current Office Action mailed March 17, 2010, pg. 5). Applicants note that the disclosure further supports an optimizing planer (see e.g. Figures 29-32 and page 33, lines 9-16 of the specification). Applicants respectfully submit that the disclosure of a planer, optimizing planer, planer-matcher, and moulder provides support for this recitation (see e.g. pg. 1, lines 11-13).

The amendments are believed to overcome the objections to the specification. Therefore, Applicants respectfully request reconsideration and withdrawal of the objections.

Claim Rejections – 35 U.S.C. §112, First Paragraph

Claims 1-15 and 21-25 were rejected under 35 U.S.C. 112, first, as failing to comply with the written description requirement. Specifically, the Office Action cited a lack of support in the original disclosure for “a processing machine.” The amendments to claims 1, 24, and 26 as described above are believed to be sufficient to overcome these rejections. Therefore, reconsideration and withdrawal of these rejections is respectfully requested.

Claim Rejections – 35 U.S.C. §112, Second Paragraph

Claims 1-15 and 21-25 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

In response, Applicants have amended the claim language specified in the rejections under this paragraph to overcome all rejections under 35 U.S.C. 112, second paragraph. In particular, claims 1, 24, and 26 are amended as described above to clarify the term “processing machine.” Claim 26 is further amended to clarify the determination of a desired gap and to recite a cutting apparatus. Claims 26 and 28 are amended to further clarify the recitation of “one or more attributes.” Claim 30 is amended to depend from claim 27 and to delete the recitation “the cutting device.” Antecedent basis for the recitation in claim 31 “said optimized cutting solution” is provided in claim 27, from which amended claim 31 indirectly depends.

The amendments are believed to obviate the rejections. Reconsideration and withdrawal of the rejections is therefore requested.

CONCLUSION

In view of the foregoing, Applicants submit that all pending claims are in condition for allowance. Should any questions arise, the Examiner is invited to contact the undersigned at (503) 796-2456. Also, the Commissioner is hereby authorized to charge shortages or credit overpayments to Deposit Account No. 500393.

Respectfully submitted,
SCHWABE, WILLIAMSON & WYATT, P.C.

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